

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

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:
UNITED STATES OF AMERICA, : Criminal Action No.
:
versus : 1:17-CR-284
:
CHRISTOPHER ROBERT SUEIRO, :
:
Defendant. : July 16, 2019
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The above-entitled Competency Hearing and Status
Conference was heard by the Honorable Rossie D. Alston, Jr.,
United States District Judge.

A P P E A R A N C E S

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United States District Court
Eastern District of Virginia
401 Courthouse Square, Ninth Floor
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P R O C E E D I N G S

(Court proceedings commenced at 10:57 a.m.)

THE DEPUTY CLERK: The court calls Case 1:17-CR-284. United States of America versus Christopher Robert Sueiro for a status conference and competency hearing.

May I have the appearances, please. First for the Government.

MR. BURKE: Good morning, Your Honor. Jim Burke and Kellen Dwyer on behalf of the United States.

MR. GOROKHOV: Good morning, Your Honor. Eugene Gorokhov here for the defense and Mr. Sueiro is in court as well.

THE COURT: Thank you, counsel.

Counsel, as I understand it, there are several things that we need to address before we get to maybe the nuts and bolts of what we're doing.

I understand, from looking at the record, that Mr. Sueiro has a request to proceed pro se. Is that correct?

MR. GOROKHOV: That's correct, Your Honor.

THE COURT: All right. Mr. Sueiro, you may stand. Good morning, sir.

THE DEFENDANT: Good morning.

THE COURT: Mr. Sueiro, I have to inform you that obviously you have a right to be represented by counsel and you have a right to self-representation.

1 However, whenever making a decision as to whether or
2 not you're going to waive counsel, that must be knowing and
3 voluntary.

4 Do you understand that concept, sir?

5 THE DEFENDANT: I am aware of that, yes.

6 THE COURT: All right, sir. If I could please ask
7 you to raise your right hand and I'm going to take an oath
8 from you.

9 THE DEFENDANT: It's against my religion to actually
10 to take oaths as per Matthew in the Bible when Jesus says not
11 to take oaths.

12 THE COURT: All right, sir.

13 Well, I assume that by saying that, sir, that you're
14 electing not to take the oath. But do you understand that the
15 information and the response that you provide to me, if they
16 are untrue, can result in a sanction.

17 Do you understand that, sir?

18 THE DEFENDANT: I'm aware of that. However, Jesus
19 does say not to take oaths. And so it's therefore against my
20 religion. I can show you if you have a Bible handy. It's in
21 Matthew and other Gospels as well.

22 THE COURT: Well, sir, I understand that and I
23 appreciate your faith and your willingness to go forward in
24 your faith. But I'm also a man of faith. And we can sit here
25 and quote the Bible back and forth until the day is done. The

1 Bible also says, "Render unto Caesar what is Caesar's, Render
2 unto God what is God's."

3 THE DEFENDANT: Yes.

4 THE COURT: Sir, do you understand that concept?

5 THE DEFENDANT: I am aware of that, yes.

6 THE COURT: So in light of that, sir, what I'm going
7 to do is inform you that the responses that you have or are
8 going to give here will be under penalty of perjury, if
9 they're incorrect. Do you understand that, sir?

10 THE DEFENDANT: I'm aware of that.

11 THE COURT: All right, sir. Let me ask you some
12 questions: Sir, this is what we call a Faretta inquiry. A
13 Faretta inquiry is making sure that you have the ability to
14 represent yourself. So I'm going to ask you some questions.
15 If you don't understand those questions or you want me to
16 follow-up on those questions, please feel free to ask me.

17 Do you know what a Faretta inquiry is?

18 THE DEFENDANT: I am familiar with it, yes.

19 THE COURT: Okay. Explain to me what you believe a
20 Faretta inquiry is, sir.

21 THE DEFENDANT: It's a series of questions asked to
22 determine if someone is able to represent themselves based on
23 the case law that it comes from.

24 THE COURT: Very good, sir.

25 Sir, and as I said earlier, in order to represent

1 yourself, you have to make a determination as to whether
2 you're voluntarily and knowingly making a decision to go
3 forward in this matter. So I'm going to ask you some
4 questions. Again, if you do not understand these questions,
5 please feel free to ask me. Let me tell you, from the outset,
6 that a defendant who elects to represent himself cannot
7 thereafter complain that the quality of its own defense as a
8 denial of effective assistance of counsel.

9 Do you understand that, sir?

10 In other words, you're going to be held to the same
11 standard that a lawyer will be held in the prosecution of this
12 case.

13 THE DEFENDANT: I am aware of that.

14 THE COURT: All right, sir. Have you ever studied
15 law, sir?

16 THE DEFENDANT: I actually have, yes.

17 THE COURT: How much have you studied then, sir?

18 THE DEFENDANT: I mean I don't know how you -- how
19 you can gauge it. I've studied various aspects of it.

20 THE COURT: Okay. Well, the gentleman that's
21 representing you obviously went through four years of college
22 and three years of law school and has passed the Bar. And I'm
23 not suspecting that you have that high standard of education,
24 but tell me what you've done to understand and study the law.

25 THE DEFENDANT: I have read and studied various

1 parts of the law, yes.

2 THE COURT: All right. Tell me how a jury -- tell
3 me how jury trials are conducted.

4 THE DEFENDANT: I'm sorry, can you elaborate on...

5 THE COURT: Sir, in conducting a jury trial we're
6 going to go through several processes. Some of that processes
7 involves selection of a jury, a process called voir dire.

8 Do you know what voir dire is, sir?

9 THE DEFENDANT: It's Latin.

10 (Laughter.)

11 THE COURT: Very good.

12 THE DEFENDANT: I mean I know that there are --
13 there is a jury of 12 people selected and I mean I know how
14 all that works, yes.

15 THE COURT: Explain to me how it works.

16 THE DEFENDANT: There's a jury of 12 people selected
17 and they listen to the case from both sides. And at the end,
18 they talk amongst themselves when deliberating and decide if
19 they think the individual is guilty or not guilty.

20 THE COURT: Tell me how they're selected. That's
21 what voir dire is. Tell me how they're selected.

22 THE DEFENDANT: There's a process with -- well,
23 they're -- I'm figuring out how to say this.

24 THE COURT: Speak frankly. You don't need to use
25 fancy words.

1 THE DEFENDANT: Yeah, they -- they're chosen based
2 on certain factors like if -- if the defense has certain
3 interest in a particular juror, they think that they might be
4 good for their case, they'll try to keep them. If not,
5 they'll try to have them taken off.

6 THE COURT: Okay. That's generally how it works.
7 But what typically happens when you have a lawyer is that the
8 lawyer, in preparation for the voir dire process, will submit
9 questions to the Court that he or she wants the Court to ask
10 the people who may potentially serve on the jury, and then the
11 judge will conduct the voir dire after listening and
12 considering the questions that the Government may want to
13 offer. And the questions have to be relevant and have to deal
14 with the ability for the people who are going to potentially
15 serve on the jury to be able to render a fair verdict and sit
16 impartial to the matter, until they've actually had the
17 opportunity to hear the case. So that's how voir dire
18 typically works.

19 Do you think you would be comfortable with going
20 through that process, sir?

21 THE DEFENDANT: Yes.

22 THE COURT: How old are you, sir?

23 THE DEFENDANT: Thirty-seven.

24 THE COURT: What is your highest level of education?

25 THE DEFENDANT: I finished school. I didn't do

1 college, although I finished all of grade school.

2 THE COURT: You finished high school?

3 THE DEFENDANT: Yes.

4 THE COURT: Did you get a GED or a regular high
5 school diploma?

6 THE DEFENDANT: A GED. I stopped going earlier and
7 just went ahead and got a GED to cut it short.

8 THE COURT: Okay. Have you done any education or
9 pursued any education after that, say, community college or
10 college or anything like that?

11 THE DEFENDANT: I did. And I scored very well, very
12 high on the placement testing. However, at the time that I
13 did that, I didn't -- I wasn't doing great financially so I
14 decided not to continue on. But I have studied various things
15 on my own in my own time. Anything that interests me
16 basically.

17 Nowadays, you don't -- you don't really need to pay
18 for education to get an education. It's all available if you
19 just know how to find it.

20 THE COURT: Well, I have two daughters with a whole
21 lot of student loans that I'm paying back, so I think you do
22 have to pay for education if you do get education.

23 But sir, let me ask you this --

24 THE DEFENDANT: To get an official document saying
25 that you paid into the system you do, but to actually get an

1 education where you are knowledgeable then, you don't actually
2 in today's world.

3 THE COURT: Sir, I'm going to be frank with you and
4 I've read the transcripts of your prior hearings with
5 Judge Trenga and there were some times that it was really
6 difficult. I like to be frank and straight up with people.
7 And there were times that you were speaking over Judge Trenga
8 and you apparently were not respectful of the process and the
9 like.

10 Up until this point, you've been respectful to me
11 and I do appreciate that. But do you understand that if
12 you're going to represent yourself, there's going to be a code
13 of conduct that's going to be expected of you and that code of
14 conduct is going to be the same code of conduct that any
15 lawyer would have to adhere to. And that is not speaking over
16 the judge, listening when you need to listen, speaking when
17 it's your turn, and working with courtroom security people.

18 Do you understand that, sir?

19 THE DEFENDANT: I'm aware that there's a certain way
20 that -- that you-all want things to be done. However, in my
21 defense, I will say honestly I was never speaking out of turn.
22 I was actually well within, according to the letter of the
23 law, well within my lawful rights to speak at the time I was
24 speaking.

25 As you can see, you said you read the transcripts, I

1 quoted over a dozen case laws verbatim and some of those even
2 say very -- in very detailed manner that under the
3 circumstances I was allowed to speak in my defense in that
4 case.

5 THE COURT: I'm unaware of the cases that you've
6 read, but as far as the process is concerned and the decorum
7 in the courtroom, that is my responsibility to control.

8 Do you understand that, sir?

9 THE DEFENDANT: I'm aware of that. However, my --

10 THE COURT: By saying you're aware of it, doesn't
11 answer my question. Are you willing to adhere to it?

12 THE DEFENDANT: Well, my question about that is --
13 which trumps which, the decorum of the court or the letter of
14 the law? Because it seems to me like since this is a court of
15 law, the letter of the law should trump any decorum or any
16 rules of procedures.

17 THE COURT: To make it simple, the Government
18 doesn't get to make the rules, you don't get to make the
19 rules, I don't get to make the rules. We all have to follow
20 the rules. But if you're telling me that you're unwilling to
21 follow the rules of the Court and going to follow some rule or
22 mandate that you want to pursue, it's going to undermine my
23 ability to allow you to represent yourself. Everyone has to
24 follow the rules.

25 THE DEFENDANT: No, that's not what I'm saying at

1 all. What I'm saying is, I am just saying that I -- I adhere
2 to the letter of the law as a court of law should. If the
3 letter of the law says in a particular matter that someone has
4 the right to speak in their defense, then who are any of us to
5 go against the letter of the law.

6 THE COURT: All right. Do you understand, sir, that
7 you're expected to comply with all the applicable rules of
8 court and procedure?

9 THE DEFENDANT: I am aware of that. However, it
10 would make all logical sense that none of those things should
11 conflict with the letter of the law.

12 THE COURT: All right, sir. Have you ever
13 represented yourself in a criminal action?

14 THE DEFENDANT: If you count the times I did here,
15 yes.

16 THE COURT: Okay. Explain that, sir.

17 THE DEFENDANT: Well, you've read the transcripts.
18 I mean they are saying technically I wasn't officially --

19 THE COURT: Oh, I understand what you're saying.
20 Those times you actually had counsel with you, but you were
21 speaking on your own behalf, is that what you are saying?

22 THE DEFENDANT: Yes, because I wasn't accepting
23 counsel.

24 THE COURT: So I'm going to go over some charges
25 that you have. And I'm going to make sure that you understand

1 those charges, because this is important as we go through this
2 process to make sure that you understand what you're charged
3 with.

4 Do you understand, sir, that you're charged with
5 possession of child pornography and that particular offense
6 can result in you having a sentence of no more than 20 years
7 and a fine of up to \$250,000, are you aware of that?

8 THE DEFENDANT: I'm aware of what the bogus charge
9 is.

10 THE COURT: Do you understand, sir, that you're also
11 charged with receipt of child pornography and in that case or
12 that matter is not less than five years or more than 20 years.
13 And once again a fine of up to \$250,000.

14 THE DEFENDANT: Again, I am aware of the bogus
15 charge, yes.

16 THE COURT: Do you also understand that you're
17 charged with an attempted receipt of child pornography. And
18 once again that charge carries not less than five years, no
19 more than 20 years and a fine of up to \$250,000.

20 THE DEFENDANT: Again, I am aware of the bogus
21 charge, yes.

22 THE COURT: Okay. Finally, sir, you are charged
23 with the promotion and solicitation of child pornography, not
24 less than five years, no more than 20 years, and a fine of up
25 to \$250,000?

1 THE DEFENDANT: Again, I'm aware of the bogus
2 charge, yes.

3 THE COURT: Do you understand, sir, that if you're
4 found guilty, the Court must impose a special assessment of
5 \$100 dollars of each count?

6 THE DEFENDANT: I am aware of that, yes.

7 THE COURT: Okay. Do you understand that if you're
8 found guilty of more than one of these crimes, that the Court
9 can impose a consecutive sentence. In other words, one after
10 the other. Add those sentences up.

11 THE DEFENDANT: I'm aware.

12 THE COURT: Do you understand that the advisory
13 sentencing guidelines may have an effect on your sentencing if
14 you are indeed found guilty?

15 THE DEFENDANT: I am aware, yes.

16 THE COURT: Okay. Do you understand, sir, that if
17 you are representing yourself, you are on your own. I cannot
18 tell you or advise you to how to prosecute or defend your
19 case.

20 THE DEFENDANT: Yes, I'm aware of that.

21 THE COURT: Okay. Are you familiar with the Federal
22 Rules of Evidence?

23 THE DEFENDANT: I don't want to say the wrong thing.
24 I definitely am familiar. I'm just trying to remember now.

25 THE COURT: Let me ask it another way. Have you

1 read the Federal Rules of Evidence?

2 THE DEFENDANT: I'm trying to remember. I think I
3 did, but I don't -- because I know that sounds familiar.

4 THE COURT: There are two things that are going to
5 control the protocols that we're going to adhere to in this
6 court. One is the Federal Rules of Evidence and the other is
7 the Federal Rules of Criminal Procedure. Obviously, you are
8 charged with crimes of those procedures that we use in
9 adjudicating cases that are criminal in nature. And that
10 might be where your confusion is.

11 But have you either read either one of those
12 particular sets of rules?

13 THE DEFENDANT: I think I did at some point in -- in
14 studying various things, but I can't recall.

15 THE COURT: When was that?

16 THE DEFENDANT: When was what?

17 THE COURT: That you actually -- that you have some
18 recollection of looking at those things.

19 THE DEFENDANT: Yes, I've been dealing with this for
20 a while, so maybe some years ago that I've been dealing with
21 this.

22 THE COURT: Sir, I have to tell you that the rules
23 of evidence govern what evidence may or may not be introduced
24 at trial. And that in representing yourself, you must abide
25 by these Federal Rules of Evidence and Federal Rules of

1 Criminal Procedure.

2 THE DEFENDANT: Okay.

3 THE COURT: Do you understand that, sir?

4 THE DEFENDANT: I do. I get everything you're
5 saying, yes.

6 THE COURT: Okay, sir.

7 Sir, I have a responsibility to make sure that you
8 have a fair trial. That is my ultimate goal in your case and
9 in any case, that this Court hears. And I have to tell you,
10 in all candor, that it's best to have a trained lawyer.
11 Someone who has gone to law school, who has passed the Bar,
12 who is acquainted with the rules, and who has an obligation,
13 ethical and otherwise, to represent you to the best of his or
14 her ability, that is a responsibility. And there are
15 safeguards in place to make sure whether the lawyer does do
16 those kinds of things and make sure that your rights are
17 protected.

18 And I want to suggest to you, sir, that while,
19 obviously, you're able to hold a communication or a
20 conversation with me and it's been cordial and appropriate,
21 that it's very dangerous for a person who is not trained in
22 the law to represent him or herself. And these are very, very
23 serious charges that could result with you going to prison for
24 the rest of your natural life. I have to advise you of that,
25 sir.

1 THE DEFENDANT: I'm aware.

2 THE COURT: Sir, in response to the concern that I
3 have for you, what is your position in the matter?

4 THE DEFENDANT: I still definitely want to represent
5 myself. Absolutely.

6 THE COURT: Was your decision to do this voluntary?
7 In other words, has anyone forced you to make this decision?

8 THE DEFENDANT: No one has forced me, no.

9 THE COURT: Have you spoken with your current
10 counsel about this decision?

11 THE DEFENDANT: A couple of times, yes.

12 THE COURT: Without divulging the specifics of that
13 conversation, did your lawyer try as best he could to advise
14 you that he thought it was in your best interest for him to
15 represent you or to have a lawyer represent you, rather than
16 yourself?

17 THE DEFENDANT: Yes. I mean I'm aware of all of
18 that, but I still want to represent myself regardless.

19 THE COURT: Sir, I have some concerns about your
20 statement that you've sort of looked at and can't recall
21 reading the Federal Rules of Evidence and the Federal Rules of
22 Criminal Procedure. I respect the answer that you want to try
23 to be as truthful as you could, but I feel very uncomfortable
24 with the fact that you have not read those rules and have a
25 basic understanding of those rules because they're going to be

1 required of you as we prosecute this case.

2 What do you have to say in response to that, sir?

3 THE DEFENDANT: Well, again, like I said, it
4 definitely is not unfamiliar to me. That's why I recognized
5 it when you said it. I read a lot of different things and so
6 I don't remember exactly the details of that, but I'm pretty
7 sure I did. It was one of -- had to be one of the things I
8 read over because I remember the name of it. That -- the name
9 of it is familiar to me.

10 THE COURT: Thank you, sir. You can have a seat.

11 THE DEFENDANT: I've been reading a lot of different
12 things.

13 THE COURT: I appreciate that, sir. You may have a
14 seat, sir.

15 THE DEFENDANT: All right.

16 THE COURT: Does the Government have a position on
17 this?

18 MR. BURKE: Yes, Your Honor. The Government opposes
19 the defendant's Faretta motion. The Government has grave
20 concerns about the defendant's ability to comply with the
21 Court's rules. I think he has demonstrated repeatedly that he
22 would -- is willing to disregard the Court, to speak over the
23 Court, to ignore proper decorum. And so we would oppose that
24 motion, Your Honor.

25 In the event that Your Honor is inclined to grant

1 it, however, we would request that you keep Mr. Gorokhov as
2 shadow counsel or backup counsel in the courtroom to allow for
3 the eventuality that Mr. Sueiro cannot continue to represent
4 himself.

5 THE COURT: In light of the Faretta inquiry that the
6 Court has just conducted, what factors do you suggest support
7 your position?

8 MR. BURKE: Your Honor, I think that the defendant's
9 behavior thus far has shown that he is not willing to follow
10 the appropriate procedures.

11 And the Fourth Circuit has held in the *Frazier-El*
12 case that the right of separate -- excuse me -- the right of
13 self-representation do not exist to be used as a tactic for
14 delay, disruption, or distortion of the system, or the
15 manipulation of a trial process.

16 And the Government has concerns based on his prior
17 behavior.

18 THE COURT: Let me interrupt you at that point.
19 Again, I appreciate the record in this matter and I've read
20 it. But I will say that the gentleman is respectful of the
21 Court this morning. I think he made a point of trying to be
22 respectful.

23 And maybe he's looking at it as I've got a new judge
24 and said it's a new day, and we're going to establish a new
25 relationship, and we're going to work together to try to bring

1 this thing to an end. So he's been appropriate today. So
2 that militates in his favor, quite frankly. But with regard
3 to this specific Faretta inquiry that we've conducted, what
4 things would you point to to suggest that the better course is
5 to keep him with counsel?

6 MR. BURKE: Your Honor, I think that as you're
7 questioning and the defendant just elucidated, he is not
8 familiar or appears that he is not familiar with the Federal
9 Rules of Evidence or the Federal Rules of Criminal Procedure.
10 And in order to conduct a trial appropriately, I think he
11 would have to have some substantive knowledge of those things
12 or at least have someone on hand to advise him of those -- of
13 those rules.

14 THE COURT: All right, sir. Counsel, I know that
15 you're in a tough spot here. Do you have any comment?

16 MR. GOROKHOV: Your Honor, only to say that, you
17 know, I agree with everything that Your Honor warned Mr.
18 Sueiro. I've made the same statements as well. That being
19 said, I think I have a duty to urge this Court to allow Mr.
20 Sueiro to exercise his constitutional right. Under the
21 circumstances, as Your Honor pointed out, I think Mr. Sueiro
22 has been respectful, his answers are, I think, intelligent,
23 thoughtful, and he's made great progress since this Court --
24 since this case was before Judge Trenga some months ago. I
25 think that shows that he's actually willing to go along with

1 the Court's procedure and be respectful and I would urge this
2 Court to allow him to do that.

3 I would also point out that I think if the Court
4 follows the course recommended by the Government, I think
5 there's going to be a serious problem in terms of the
6 appellate review of this case, given Mr. Sueiro's responses to
7 the Court here today.

8 So I would, as much as it pains me, I would urge
9 this Court to allow Mr. Sueiro to proceed in his own defense.
10 And if necessary, I'd be glad, of course, to serve as standby
11 counsel and step in should it be necessary.

12 THE COURT: Thank you, sir.

13 Mr. Sueiro, this is your motion. You may stand,
14 sir. If you have anything you want me to consider, you can
15 say it at this time, sir.

16 THE DEFENDANT: Yes, I just wanted to say again that
17 I never had any intention or actually did anything to
18 disrespect the law of the land. Everything that I said and
19 did was within my rights. Otherwise, I wouldn't have done it.

20 I am not trying to break any rules or anything. I'm
21 just trying to do what is within my rights to do. So I mean
22 if you looked over the transcripts, you can see that I didn't
23 go outside of what -- what is my rights.

24 However, my rights have been compromised a number of
25 times in court already. And so I just don't understand why it

1 seems to be everyone decided that it's okay for the Court to
2 violate my rights, but then when it comes to this question of
3 rules and etiquette, even though the letter of the law says
4 otherwise in certain matters, then I'm at fault, because I'm
5 insisting on my rights being honored.

6 This just doesn't make any sense to me.

7 For example, just one thing to point out is the fact
8 that -- and I want to reiterate again that I do request and
9 demand a speedy trial. However, my Sixth Amendment right to
10 speedy trial has been violated by well over a year. The day
11 for that deadline --

12 THE COURT: Let's talk about the speedy trial later.
13 I will let you know that during the time that the issue of
14 competency was considered, there's some circumstances which
15 dictate how that time was to be computed. So let's set the
16 speedy trial issue aside.

17 THE DEFENDANT: Right. I'm aware of that as well.
18 But even with that extra time to take into consideration, it's
19 still way past the date. But yet that right continues to be
20 violated in every second that I'm in that jail or every second
21 that I'm in this courtroom. That right is being violated more
22 and more and more because I shouldn't have to be dealing with
23 this.

24 So no one is talking about the Court being at fault
25 there. It seems like the Court can do no wrong, but when I

1 speak, according to the letter of the law for my rights, then
2 I'm the bad guy. That doesn't make any sense.

3 THE COURT: All right, sir.

4 Thank you, sir. You may have a seat. Sir, this
5 doesn't come down to whether you're a bad guy or not. I'm not
6 assessing your behavior. As far as I'm concerned, your
7 behavior here this morning has been very good. I have no
8 problem with the way you've responded to the Court's
9 questions, I have no problem with the way that you've
10 conducted yourself, so that is definitely to your advantage.
11 My concern though, as it relates to this, first of all, your
12 hesitancy to recognize that you're going to have to follow the
13 rules because it seems like you have your own set of rules
14 that you believe should control how we do the process, and
15 that's what I heard you say and that's my evaluation of the
16 credibility determination I've made with regard to that.

17 Plus I have some real struggles with this idea that
18 you really don't have a real good feel for the Federal Rules
19 of Evidence and Federal Rules of Criminal Procedure, which are
20 going to be the most important thing that we have to use in
21 dealing with the matters that are before us.

22 And so despite your presentation, despite your
23 counsel's support of your position and advocacy on your
24 behalf, I believe that the requirements under Faretta have not
25 been met and I'm going to keep your current counsel involved

1 in the case. And that's the decision of the Court.

2 All right. Let's go ahead and move to the next
3 issue and that is what Mr. Sueiro has raised. And that is the
4 issue of speedy trial. I had my law clerk get in touch with
5 both counsel saying that I wanted to have some idea of where
6 we were and I think there was an indication that the
7 Government wanted to file something and I really haven't heard
8 from defense counsel. I appreciate why you haven't filed
9 anything, because you didn't know the status of the case. So
10 let's work with the Government's position and go back to
11 defense counsel.

12 MR. BURKE: Yes, Your Honor. I think the short
13 answer is that the Government has calculated their 41 days
14 remaining on the speedy trial clock for Mr. Sueiro's case.
15 The vast majority of the time that has elapsed in this case,
16 Your Honor, has been either tolled by pending motions, tolled
17 by Judge Trenga for the purposes of psychological evaluations,
18 or for the ends of justice to allow his new counsel to get up
19 to speed.

20 THE COURT: Okay.

21 MR. BURKE: And it's a bit Byzantine, Your Honor,
22 but I'm more than happy to lay it out in all its complexity if
23 Your Honor would like me to brief the issue.

24 THE COURT: Why don't you go ahead and brief the
25 issue so that I can have the ability to assess it. Based upon

1 my own general evaluation of the case, we need to try this
2 case sooner rather than later.

3 MR. BURKE: Agreed, Your Honor.

4 THE COURT: That's the impression that I get.
5 Counsel, did you have anything else to say?

6 MR. GOROKHOV: I have nothing to add, Your Honor,
7 other than to say that, you know, the -- given Mr. Sueiro's
8 statements here in court today, I would ask the trial be --
9 the -- that the case be tried within the speedy trial time
10 frame.

11 THE COURT: Absolutely. And what we're going to do
12 today is go ahead --

13 Let me ask you this, counsel, without necessarily
14 positioning yourself in this regard. Is your calculation
15 somewhat close to the 41 days that the Government is talking
16 about?

17 MR. GOROKHOV: I believe their calculation is
18 correct, Your Honor.

19 THE COURT: Okay. You believe their calculation is
20 correct. So if we can get this matter set on the docket
21 within that 41 days, you believe that the requirements of
22 speedy trial will be met.

23 MR. GOROKHOV: Yes, Your Honor.

24 THE COURT: All right.

25 MR. BURKE: Your Honor, if I might. There are

1 currently pending motions in limine, so technically it is
2 tolled as of right now.

3 THE COURT: All right. Madam deputy clerk, tell me
4 what days we have.

5 (Discussion off the record.)

6 THE COURT: How long do you-all think you're going
7 to need for trial?

8 MR. BURKE: We were in the process to discuss August
9 the 12th or September the 9th as the most fortuitous dates for
10 the witnesses and the parties.

11 THE COURT: Defense counsel.

12 MR. GOROKHOV: Those dates work for us. I think,
13 you know, it would be the preference of Mr. Sueiro to try this
14 case sooner, if possible.

15 THE COURT: Yes, sir.

16 MR. GOROKHOV: I do have a few conflicts, but not
17 many, Your Honor.

18 THE COURT: All right. Can you tell me a little bit
19 about the conflicts. And I know how hard it is to be defense
20 counsel, that you're running from courthouse to courthouse,
21 and courtroom to courtroom.

22 MR. GOROKHOV: Yes, Your Honor. I have a few. I
23 have a sentencing -- I have one conflict on the 22nd of July,
24 but the rest of that week is free. There are just one day
25 here and there. I'm actually pretty open this summer, Your

1 Honor.

2 THE COURT: How many days do you anticipate for
3 trial?

4 MR. GOROKHOV: I defer to the Government on that.

5 MR. BURKE: Your Honor, I'd say between two to
6 three.

7 THE COURT: Okay. All right.

8 (A pause in the proceedings.)

9 THE COURT: Counsel, how does starting on August 12
10 look?

11 MR. BURKE: It works for the Government, Your Honor.

12 MR. GOROKHOV: It works for us, Your Honor. Thank
13 you.

14 THE COURT: All right. August 12th. We'll set this
15 matter for August 12th. We'll tentatively schedule it on the
16 docket for three days. We'll work for three days. And,
17 obviously, if it's more efficient, we can do it that way. I
18 would ask that counsel get to me, as soon as practicable, the
19 suggested voir dire. It would be my preference that if we can
20 get it in by the end of this week, that would be great. We'll
21 go ahead and set the matter for that. We'll set it for three
22 days.

23 Okay. Are there any other housekeeping matters that
24 we need to take care of?

25 MR. BURKE: Your Honor, what's the Court's

1 preference for resolving the motions in limine? That would
2 impact the Government's evidence, which is pretty substantial.

3 THE COURT: Okay. How many motions do you have?

4 MR. BURKE: I believe the Government has three and I
5 think defense counsel's has been resolved, if I'm not
6 mistaken.

7 (A pause in the proceedings.)

8 MR. BURKE: There may be more than that, Your Honor.

9 THE COURT: Well, let's strike while the iron is
10 hot. Let's go ahead and see if we can -- being the new
11 person, I've got a wide open docket. So let's go ahead and
12 see if we can do that this week.

13 MR. BURKE: Okay.

14 THE COURT: Off the record.

15 (Discussion off the record.)

16 THE COURT: How long do you think you are going to
17 need for your motions; maybe an hour?

18 MR. DWYER: If that, Your Honor, probably less.

19 THE COURT: Counsel, how long for yours?

20 MR. GOROKHOV: I think that's fair, Your Honor.

21 THE COURT: How about 1 o'clock on Friday, does that
22 sound good?

23 MR. GOROKHOV: Your Honor, would it be possible for
24 it be at two o'clock. I have a meeting at 1:00.

25 THE COURT: Sure. 2:00.

1 MR. GOROKHOV: Thank you, Your Honor.

2 THE DEFENDANT: May I ask a question?

3 THE COURT: Yes, please stand.

4 THE DEFENDANT: I would really like to see the full
5 writing on this.

6 THE COURT: I'm sorry.

7 THE DEFENDANT: I would like to see all the
8 documentation on this. How they're calculating the speedy
9 trial thing, because the date for that ended was on May 1st of
10 2018. The very first time I came back into court, after that
11 date had passed, was May 10th and I began raising the issue
12 all the way back then. And this carried from one court to the
13 next, to the next, to the next, and it was never resolved. It
14 kept being pushed under the carpet.

15 Now, all of sudden somehow -- and that was even
16 before all these competency evaluations, which were unlawful
17 under the circumstances. That's another topic entirely.

18 So how is it that the date had already expired and
19 now somehow it hasn't expired. That doesn't make any sense.

20 THE COURT: So the Government has suggested, and
21 your defense counsel has recognized, that there's a
22 calculation that suggested we need to do it within 41 days. I
23 haven't made an ultimate determination as to whether or not
24 that is correct, because I want to see what the Government's
25 calculation is. And so your position may have some merit, but

1 I need to evaluate it before I can make a final determination
2 if that is indeed correct.

3 But what I do need to do today, because we need to,
4 assuming that the Government's calculation is indeed correct,
5 set the matter so that we can be within the 41 days that the
6 Government has suggested. So if the Government is incorrect
7 and I'm going to do the calculation myself, then you may be in
8 a better position.

9 But as far as today is concerned, I need to go ahead
10 and set the matter, assuming for the sake of discussion the
11 Government's 41-day calculation is correct, but I will take
12 into consideration what you're raising.

13 THE DEFENDANT: Okay. I'm asking to be given the
14 same things you are looking at so I can see --

15 THE COURT: Sure.

16 THE DEFENDANT: Because I know for a fact that's not
17 correct.

18 THE COURT: Sure. The Government has a
19 responsibility and obligation and if there's anything that
20 they file with the Court to provide it to your defense
21 counsel; your defense counsel has an obligation to provide it
22 to you.

23 THE DEFENDANT: Okay.

24 THE COURT: All right, sir. Thank you.

25 MR. GOROKHOV: Thank you, Your Honor. And just in

1 light of what Mr. Sueiro just said, I don't want to -- I
2 respect the Court's ruling on Faretta and I don't -- I know
3 the Court doesn't want to now relitigate the issue, I did want
4 to let the Court know that I think Mr. Sueiro's objection
5 regarding speedy trial actually is some evidence of his
6 ability to represent himself and to persist in his interest in
7 the case.

8 I also did want to notify the Court that, you know,
9 in order to protect the record for appeal, I do want to file
10 a further pleading on the Faretta issue.

11 THE COURT: Yes, sir.

12 MR. GOROKHOV: If that's fine with the Court.

13 THE COURT: Yes, sir.

14 MR. GOROKHOV: Thank you, Your Honor.

15 THE COURT: As I said, the determination that the
16 Court made was essentially a credibility determination. And
17 based upon that credibility determination, I believe that the
18 Court is in a good position to keep competent counsel with Mr.
19 Sueiro in light of the circumstances presented.

20 As I said, Mr. Sueiro did not present himself
21 undeserving today. But yet the Court had to make a
22 determination based upon the credibility of the circumstances
23 presented.

24 MR. GOROKHOV: Thank you, Your Honor.

25 THE COURT: All right. Anything else we need to do,

1 counsel?

2 MR. BURKE: No, Your Honor.

3 THE COURT: Counsel.

4 MR. GOROKHOV: No, Your Honor. Thank you.

5 THE COURT: Mr. Sueiro, your counsel will be in
6 touch with you regarding all of the things that were discussed
7 today and will also be in touch with you in regard to anything
8 that the Government files in this matter. And I'm sure that
9 he will get it to you in a timely manner. We'll be back in
10 court next Friday at two o'clock to deal with the motions that
11 are presented both by your counsel and by the Government.

12 Do you have any questions, sir?

13 THE DEFENDANT: You said next -- what date?

14 THE COURT: Friday.

15 THE DEFENDANT: Next Friday.

16 THE COURT: This coming Friday.

17 THE DEFENDANT: Okay.

18 THE COURT: This coming Friday.

19 And sir, I understand that you want to represent
20 yourself, but in light of the determination the Court has made
21 today, are you satisfied with the services of counsel?

22 In other words, he advocated your position. Are you
23 satisfied that he did the best job he could do today?

24 THE DEFENDANT: I can't honestly say that I'm
25 satisfied because the only way I can be would be able to be

1 representing myself because that's the only way I can assure
2 that my best interest is being looked at.

3 THE COURT: The Court is going to make a finding
4 that the defendant's counsel have capably represented the
5 defendant in the matter today and advocated his position to
6 the best of his ability.

7 All right. Anything else we need to do?

8 All right.

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10 **(Proceedings adjourned at 11:32 a.m.)**
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CERTIFICATE OF REPORTER

I, Tonia Harris, an Official Court Reporter for the Eastern District of Virginia, do hereby certify that I reported by machine shorthand, in my official capacity, the proceedings had and testimony adduced upon the Competency Hearing and Status Conference in the case of the **UNITED STATES OF AMERICA versus CHRISTOPHER ROBERT SUEIRO** Criminal Action No. 1:17-CR-284, in said court on the 16th day of July, 2019.

I further certify that the foregoing 33 pages constitute the official transcript of said proceedings, as taken from my machine shorthand notes, my computer realtime display, together with the backup tape recording of said proceedings to the best of my ability.

In witness whereof, I have hereto subscribed my name, this August 30, 2019.



Tonia M. Harris, RPR
Official Court Reporter